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SUBJECT: CANADA GIVES POSITIVE SOUNDINGS ON GREAT LAKES  
SHIPRIDER

1. (SBU) Summary: After meeting with a U.S. Shiprider team on July 28 and offering positive soundings on a way to move forward on the two-week proof of concept phase of the program, GOC lawyers and operators met August 2 and agreed to continue joint planning for a possible program in September-October. The GOC still needs a firm decision at the ADM level, which is expected in the next two weeks, but meanwhile, GOC lawyers are reviewing our draft dipnote and RCMP operators are making preparations for the required training. If all goes well we could see boats in the water in late September or early October. This is an excellent example of U.S. interagency cooperation and if successful, could break ground for enhanced cooperation with Canada in other areas. End Summary.

2. (SBU) On July 28, 2005, DHS operators and attorneys met in Ottawa with Canadian counterparts for consultations on the Great Lakes Shiprider proof of concept. The shiprider concept would allow for the provisional formation of joint units of American Coast Guard and RCMP officers on each country's vessels to provide for enhanced law enforcement capabilities in the difficult to delineate Great Lakes border area and other boundary waters. GOC officials have been interested in the program for several years, but have not been able to get beyond the political fear over sovereignty or a prospective incident involving a high profile arrest or shooting of a Canadian citizen by an American officer. Deputy Prime Minister McLellan and Justice Minister Cotler have expressed support for the program and directed their staffs to move it forward.

3. (SBU) The legal meeting was led on the U.S. side by LCDR Brad Kieserman (USCG Office of Maritime and International Law) and included Ayman Rizkalla (ICE Principal Legal Advisor's Office) and Embassy Poloff. Lawyers on the Canadian side represented Justice, Customs, DFAIT, PSEP-C, Trade, Immigration, Firearms Center, Fisheries and Oceans, and Foreign Affairs. Lead Canadian negotiator Michael Zigayer (Senior Counsel, Department of Justice) said that the shiprider issue was a high priority for Canada after the recent Halifax meeting and this meeting was intended to explore what mechanisms exist in Canadian law to give U.S. officers status in Canada as peace officers. The two sides then walked through a series of issues to be resolved, in all cases focusing only on requirements for the 2-week pilot project:

-- Designation of Officers: The U.S. officers would receive a special title -- e.g. Supernumerary Special Constable -- which would confer authority as peace officers. They would have the same enforcement authority as the RCMP, with the same protections and exemptions. Also, they would have the same prohibitions in terms of weapons -- no pepper spray, large magazines for weapons, automatic weapons, etc. The Canadian side thought this was a manageable issue.

-- Reporting Requirements: There will be a need for the U.S. officers to check in with Canadian Customs every time they begin a shift and to check out when they finish. The team thought there could be a 24-hour call center to manage this.

-- Citizenship: The issue of work permits was raised. It could be handled by either giving the U.S. officers work permits, based on the fact that they would not be taking jobs away from Canadians, or simply ignoring the issue because their duties do not constitute "work" in a traditional framework. They will recommend the latter.

-- Communication and Info-Sharing: The Arar inquiry is the context. The Arar final report and recommendations will not be out by the time we put boats in the water this year so the current climate is what is important, although it could change before we arrive at a permanent program. Within the current climate there were not any show-stoppers, just a good deal of reticence on information sharing in general.

-- Import-Export Laws: This was the only area where there was not a clear way forward. The issue is that to bring firearms into the country requires a permit and there are "nasty penalties" for not complying. The Canadian side

suggested three options: 1) presume no export or import, essentially ignoring the law as being ambiguous in the case of law enforcement officers, 2) issue permits, 3) assume risk that no one notices. The sense we got was that they would recommend some variant of option one. One key concern was that it could affect the prosecution of a case if a boat was intercepted on the waters and the defense argued that there was something amiss in how it was taken down (e.g. U.S. officials carrying arms illegally). The bottom line was that even if certain cases were lost in court, the goods would be off the street (or off the water), and public fallout would be minimal. There may be a need for legislation in the future but not in time for the trial concept.

-- Criminal and Civil Liability: Since cross-designation gives U.S. officers the same status as their Canadian counterparts this was not deemed to be a problem.

14. (SBU) The U.S. side then discussed how we have worked around all similar issues on our side, to include training and certification, marking of vessels, weapons of RCMP officers on board US vessels, information sharing, reporting, and arrest authority (to include what happens when we pick up migrants).

15. (SBU) In a parallel meeting between operators of the US Coast Guard and RCMP, the following issues were discussed:

-- The two sides reviewed training options, which would start with basic boat familiarization and survival training on August 15 regardless of whether the concept has been approved. After approval there will be a requirement for an additional 30 days of training. Hull Island for boat training and Detroit Winsor for classroom training were agreed as the best venues.

-- There will be 4 boats maximum (2 U.S. and 2 Canadian) involved in the program.

-- The crews will be 4 American and 1 Canadian on the U.S. boats, and 2 RCMP and 1 American on the Canadian vessels. Both will use a blue light for identification.

-- There was some reticence on the part of some of the Canadian officials with regards to a media layout. Some thought it could be a positive tie-in with the SPP, others thought it would be best to keep it quiet given the political sensitivities.

16. (SBU) Timing/Decision: The Canadian team said it would continue its internal discussions on August 2, and if approved in a directors level interagency meeting, would move the concept to the ADM level for approval. The August 2 meeting was held as planned and the recommendation was made to move the concept forward, which DFAIT lawyers say should take place in the next two weeks. Planners have been in contact with regards to training, and lawyers have begun to compare notes on the draft dipnote language. There will also be an MOU that DHS/ICE will need from the RCMP laying out the details for RCMP officers on US vessels, and the Canadians will also have a similar MOU for us. If all goes as planned, the first boats could be in the water in late September.

17. (SBU) Comment: This process has been a tremendous example of U.S. inter-agency cooperation that could well translate into future successes. We also hope that a shiprider protocol may serve as a stepping-stone to more routine U.S. and Canadian law enforcement joint operations along our contiguous land and sea frontier. For instance, we would welcome the expansion of the already successful IBET program to include joint (vs. the current parallel) patrols, and the addition of overflight and landing provisions for IBET air components.

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